

# EXHIBIT 5

<p style="text-align: right;">165</p> <p>1 Exhibit 8. So I think, as I recall,</p> <p>2 that's basically it.</p> <p>3 Q. And what efforts did you</p> <p>4 undertake before appearing to testify</p> <p>5 here today to in any way expunge your</p> <p>6 knowledge of the work that was done in</p> <p>7 preparing Exhibit No. 8 from your</p> <p>8 general experience and background so you</p> <p>9 could testify otherwise on the topics</p> <p>10 you were going to be asked about in your</p> <p>11 direct?</p> <p>12 MS. AMRON: Objection on the</p> <p>13 grounds that it mischaracterizes the</p> <p>14 witness' testimony and is argumentative.</p> <p>15 MR. STACK: I certainly</p> <p>16 would dispute it is argumentative.</p> <p>17 BY MR. STACK:</p> <p>18 Q. Let me rephrase the</p> <p>19 question. Mr. Burke, what did you do in</p> <p>20 appearing to testify here today to</p> <p>21 expunge, remove everything you learned</p> <p>22 from your experience in assembling the</p> <p>23 information with your colleague to</p> <p>24 assist counsel in putting together</p>	<p style="text-align: right;">167</p> <p>1 MS. AMRON: Objection on the</p> <p>2 grounds of relevance and repeat my</p> <p>3 standing objection to questions about</p> <p>4 Exhibit 8?</p> <p>5 A. Yes, they were.</p> <p>6 Q. With respect to your</p> <p>7 appearance here today, are you being</p> <p>8 compensated for your time?</p> <p>9 A. Yes, I am.</p> <p>10 Q. Were you compensated for</p> <p>11 your travel expenses to appear in New</p> <p>12 York while en route to China?</p> <p>13 MS. AMRON: Objection,</p> <p>14 mischaracterizes his testimony.</p> <p>15 A. I have not been en route to</p> <p>16 China. Sorry.</p> <p>17 Q. Are you going to China next</p> <p>18 week?</p> <p>19 A. I am.</p> <p>20 Q. And did you fly in from</p> <p>21 London to appear here today?</p> <p>22 A. Yes. Well, no, no, no.</p> <p>23 Well, I was coming back anyway so I was</p> <p>24 not compensated by counsel for flying</p>
<p style="text-align: right;">166</p> <p>1 Exhibit No. 8?</p> <p>2 MS. AMRON: And I will</p> <p>3 object that it mischaracterizes the</p> <p>4 witness' testimony.</p> <p>5 A. Well, I guess it is a</p> <p>6 little hard to expunge things. But I</p> <p>7 reviewed in my mind the -- my experience</p> <p>8 in these areas in terms of, you know,</p> <p>9 over the course of this time period,</p> <p>10 what I have done in terms of working</p> <p>11 with the industry, you know. Over this</p> <p>12 time period Exxon Mobil repeatedly, as</p> <p>13 I've checked it through the years, has</p> <p>14 always ranked at the top in both</p> <p>15 refining capacity and retail market</p> <p>16 share. So, I mean, it wasn't too hard.</p> <p>17 The tables in Exhibit 8 largely</p> <p>18 confirmed what I had already known. It</p> <p>19 just put some numbers behind it.</p> <p>20 Q. And with regard to the</p> <p>21 information that's in Exhibit No. 8 in</p> <p>22 the tables, those materials were</p> <p>23 assembled within the last two to three</p> <p>24 weeks?</p>	<p style="text-align: right;">168</p> <p>1 back.</p> <p>2 Q. Did you stay in New York</p> <p>3 last night?</p> <p>4 A. No.</p> <p>5 Q. Pardon me?</p> <p>6 A. No, I did not.</p> <p>7 Q. Okay. And with regard to</p> <p>8 your transit from -- you did travel from</p> <p>9 London-New York; am I correct?</p> <p>10 A. That's correct.</p> <p>11 Q. With regard to the transit,</p> <p>12 were you paid for travel time to appear</p> <p>13 here today?</p> <p>14 A. No.</p> <p>15 Q. But you are being</p> <p>16 compensated for the time that you spent</p> <p>17 to prepare for and appear at your</p> <p>18 deposition here today?</p> <p>19 A. Yes, I am.</p> <p>20 Q. And at what rate are you</p> <p>21 being compensated?</p> <p>22 A. I believe it is \$460 an</p> <p>23 hour.</p> <p>24 MR. STACK: I have no</p>